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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,103	02/26/2004	Youichi Sakurai	1341.1189	4254
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EXAMINER				
KEEHN, RICHARD G				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/786,103

Applicant(s)

SAKURAI, YOUICHI

Examiner

Richard G. Keehn

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,8,10,11,14,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8,10,11,14,17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 2, 6, 7, 9, 12, 13, 15 and 16 have been cancelled.

Claims 1, 3-5, 8, 10-11, 14 and 17-18 have been examined and are pending.

This Office Action is made FINAL.

Response to Arguments

1. Applicant's amendments and arguments, see section III, page 8, filed 3/31/2008, with respect to Objection to the Specification have been fully considered and are persuasive. The objection of the Specification has been withdrawn.
2. Applicant's amendments and arguments, see section II, page 8, filed 3/31/2008, with respect to Objection to the Drawings have been fully considered and are persuasive. The objection of the Drawings has been withdrawn.
3. Applicant's arguments with respect to claims 1, 4, 5, 8, 10, 11, 15 and 17 under 35 U.S.C. 102(b) have been considered but are moot in view of the new ground(s) of rejection.
4. Applicant's arguments with respect to claims 3, 14 and 18 under 35 U.S.C. 103(a) have been considered but are moot in view of the new ground(s) of rejection. Note the art entitled "Ramberg et al." in this action differs from the art with the same title in the previous office action.
5. Claims 2, 6, 7, 9, 12, 13, 15 and 16 have been cancelled.
6. The text of those sections of Title 35, U.S. Code 102(b) and 103(a) not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

7. Claims 1, 3-5, 8, 10-11, 14 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,398,105 B2 (Ramberg et al.), and further in view of US 6,785,786 B1 (Gold et al.).

As to Claim 1, Ramberg et al. disclose an invention substantially as claimed, including a data backup device connected to a server via a network, comprising:

a storage unit that stores data (Ramberg et al. – Column 8, lines 28-30 recite the storage of data for the server);

a data identifying unit that identifies a type of data selected from a plurality of types for each of the data stored in the storage unit, wherein the backup controller specifies the type of each of the data identified when transmitting each of the data to the server (Ramberg et al. – Column 12, lines 2-3 and lines 36-39 recite the data type identifying unit for the server; Column 11, lines 37-41 recite the ADC devices specifying the type of data sent); and

a data restoring unit that
receives a request from a user (Ramberg et al. – Column 8, lines 55-60 recite the ADC device requesting a specific data type from the server; Abstract recites user input),
determines a type of backup data to be obtained from the backup data stored in the server according to the type, based on the request, the type of backup data being one of the types (Ramberg et al. – Column 8, lines 55-60 recite the ADC device

Art Unit: 2152

requesting a specific data type from the server; Column 11, lines 31-35 recite the server type matching),

requests the server to transmit the backup data of the type determined (Ramberg et al. – Column 8, lines 55-60 recite the ADC device requesting a specific data type from the server),

receives the backup data of the type transmitted from the server (Ramberg et al.

– Column 12, lines 20-21 recite the transfer of data from server to client), and

restores to the storage unit the backup data of the type received (Ramberg et al.

– Column 12, lines 20-21 recite the transfer of data from server to client).

Ramberg et al. do not disclose, but Gold et al. disclose an invention substantially as claimed, including

a usable band detector that detects a width of a usable band from an available band of the network, the usable band currently not being used (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available); and

a backup controller that

determines whether the width of the usable band is wider than a predetermined width (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth by the backup apparatus to determine if a sufficient amount of usable bandwidth is available), and

transmits the data to the server through the network to store the data as backup data in the server when the usable band is determined to be wider than the

Art Unit: 2152

predetermined width (Gold et al. – Column 5, lines 6-15 recite the backup will be allowed to start if bandwidth is sufficient);

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine a usable band detector that detects a width of a usable band from an available band of the network, the usable band currently not being used; and a backup controller that determines whether the width of the usable band is wider than a predetermined width, and transmits the data to the server through the network to store the data as backup data in the server when the usable band is determined to be wider than the predetermined width taught by Gold et al., with the data restoration system taught by Ramberg et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to allow the client to powersave or disconnect and continue backup when resources are available (Gold et al. – Column 5, lines 18-20).

As to Claim 3, the combination of Ramberg et al. and Gold et al. disclose an invention substantially as claimed, including the data backup device according to claim 1,

wherein the types are user data, operating system setting data, application information, and other data (Ramberg et al. - Abstract recites user, voice recognition system data and barcode application data; Gold et al. - Column 6, lines 35-40 recite the backup of operating system data).

As to Claim 4, the combination of Ramberg et al. and Gold et al. disclose an invention substantially as claimed, including the data backup device according to claim 1, further comprising

a data restoring unit that

receives an initial state restore request from a user to restore data of an initial state of the data backup device (Gold et al. – Column 8, lines 54-57 recites a user request to restore an earlier version of a file),

requests the server to transmit a difference between the backup data and an initial state master data both stored in the server (Gold et al. – Column 8, lines 59-64 recite that the difference is requested, identified and sent to the client storage; line 21 recites that the different versions reside on the backup apparatus), and

receives the difference from the server to restore the difference to the storage unit (Gold et al. – Column 8, lines 59-64 recite that the difference is requested, identified and sent to the client storage).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine a data restoring unit that receives an initial state restore request from a user to restore data of an initial state of the data backup, requests the server to transmit a difference between the backup data and an initial state master data both stored in the server, and receives the difference from the server to restore the difference to the storage unit taught by Gold et al., with data restoring taught by Ramberg et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to allow a user to restore a selected version of the backup other than the latest (Gold et al. – Column 8, lines 54-58).

As to Claim 5, the combination of Ramberg et al. and Gold et al. disclose an invention substantially as claimed, including the data backup device according to claim 1, further comprising:

a distribution specifying unit that receives distribution information from a user and transmits the distribution information to the server (Ramberg et al. – Claim 28 recites the ADC device; Abstract recites user input),

wherein the distribution information specifies distributed data to be distributed from the backup data stored in the server to another client separate from the data backup device via the network (Ramberg et al. – Claim 28 recites the router which sends backed up data to another ADC device),

a time at which the distributed data is to be distributed (Ramberg et al. – Claim 28 recites only when client applications should receive the data), and

a destination to which the distributed data is to be distributed (Ramberg et al. – Claim 28 recites the router which sends backed up data to another ADC device).

As to Claim 8, Ramberg et al. disclose an invention substantially as claimed, including a data backup method comprising:

storing data at a client connected to a server via a network (Ramberg et al. – Column 11, lines 29-42 recite the ADC client receiving and sending data);

identifying a type of data selected from a plurality of types for each of the data stored at the client (Ramberg et al. – Column 12, lines 2-3 and lines 36-39 recite the data type identifying unit for the server; Column 11, lines 37-41 recite the ADC devices specifying the type of data sent);

specifying the type of each of the data identified when transmitting each of the data to the server (Ramberg et al. – Column 12, lines 2-3 and lines 36-39 recite the data type identifying unit for the server; Column 11, lines 37-41 recite the ADC devices specifying the type of data sent);

receiving a request from a user (Ramberg et al. – Column 8, lines 55-60 recite the ADC device requesting a specific data type from the server; Abstract recites user input);

determining a type of backup data to be obtained from the backup data stored in the server according to the type, based on the request, the type of backup data being one of the types (Ramberg et al. – Column 12, lines 2-3 and lines 36-39 recite the data type identifying unit for the server; Column 11, lines 37-41 recite the ADC devices specifying the type of data sent);

requesting the server to transmit the backup data of the type determined (Ramberg et al. – Column 8, lines 55-60 recite the ADC device requesting a specific data type from the server);

receiving the backup data of the type transmitted from the server (Ramberg et al. – Column 12, lines 20-21 recite the transfer of data from server to client); and restoring to the client the backup data of the type received (Ramberg et al. – Column 12, lines 20-21 recite the transfer of data from server to client).

Ramberg et al. do not disclose, but Gold et al. disclose an invention substantially as claimed, including detecting a width of usable band from an available band of the network, the usable band currently not being used (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available);

determining whether the width of usable band is wider than a predetermined width (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available);

transmitting the data stored at the client to the server through the network to store the data as backup data in the server when the width of usable band is determined to be wider than the predetermined width (Gold et al. – Column 5, lines 6-15 recite the backup will be allowed to start if bandwidth is sufficient);

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 10, Ramberg et al. discloses an invention substantially as claimed, including a computer readable recording medium that stores a computer program including computer executable instructions which when executed by a computer, cause the computer to perform:

storing data at a client connected to a server via a network (Ramberg et al. – Column 19, lines 39-41 recite the client storing images as an example of data storage);

identifying a type of data selected from a plurality of types for each of the data stored at the client (Ramberg et al. – Column 11, lines 37-41 recite the ADC devices specifying the type of data sent);

specifying the type of each of the data identified when transmitting each of the data to the server (Ramberg et al. – Column 11, lines 37-41 recite the ADC devices specifying the type of data sent);

receiving a request from a user (Ramberg et al. – Column 8, lines 55-60 recite the ADC device requesting a specific data type from the server; Abstract recites user input);

determining a type of backup data to be obtained from the backup data stored in the server according to the type, based on the request, the type of backup data being one of the types (Ramberg et al. – Column 8, lines 55-60 recite the ADC device requesting a specific data type from the server; Column 11, lines 31-35 recite the server type matching);

requesting the server to transmit the backup data of the type determined (Ramberg et al. – Column 8, lines 55-60 recite the ADC device requesting a specific data type from the server);

receiving the backup data of the type transmitted from the server (Ramberg et al. – Column 12, lines 20-21 recite the transfer of data from server to client); and

restoring to the client the backup data of the type received (Ramberg et al. – Column 12, lines 20-21 recite the transfer of data from server to client).

Ramberg et al. do not disclose, but Gold et al. disclose an invention substantially as claimed, including detecting a width of usable band from an available band of the network, the usable band currently not being used (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available);

determining whether the width of usable band is wider than a predetermined width (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available);

transmitting the data stored at the client to the server through the network to store the data as backup data in the server when the width of usable band is determined to be wider than the predetermined width (Gold et al. – Column 5, lines 6-15 recite the backup will be allowed to start if bandwidth is sufficient);

The motivation and obviousness arguments are the same as Claim 1.

As to Claim 11, Ramberg et al. disclose an invention substantially as claimed, including a data backup system comprising a client and a server connected to each other via a network:

the client comprising:

a memory unit that stores data (Ramberg et al. – Column 19, lines 39-41 recite the client storing images as an example of data storage);

a data identifying unit that identifies a type of data selected from a plurality of types for each of the data stored in the memory unit (Ramberg et al. – Column 11, lines 37-41 recite the ADC devices specifying the type of data sent);

wherein the transmitter transmits each of the data to the server according to the type identified by the data identifying unit (Ramberg et al. – Column 11, lines 37-41 recite the ADC devices specifying the type of data sent); and

a data restoring unit that

receives a request from a user (Ramberg et al. – Column 8, lines 55-60 recite the ADC device requesting a specific data type from the server; Abstract recites user input),

determines a type of backup data to be obtained from the backup data stored in the server, based on the request, the type being one of the types (Ramberg et al. – Column 8, lines 55-60 recite the ADC device requesting a specific data type from the server; Column 11, lines 31-35 recite the server type matching),

requests the server to transmit the backup data of the type determined (Column 8, lines 55-60 recite the ADC device requesting a specific data type from the server),

receives the backup data of the type transmitted (Ramberg et al. – Column 12, lines 20-21 recite the transfer of data from server to client), and

restores to the memory unit the backup data of the type received (Ramberg et al. – Column 12, lines 20-21 recite the transfer of data from server to client);

the server comprising a backup data storage unit that stores, as the backup data, each of the data transmitted by the transmitter according to the type (Ramberg et al. –

Claim 16 recites the storage and retrieval of the plurality of types and the router which routes the data according to type).

Ramberg et al. do not disclose, but Gold et al. disclose an invention substantially as claimed, including a usable band detector that detects a width of usable band from an available band of the network, the usable band currently not being used (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available);

a backup controller that determines whether the width of usable band is wider than a predetermined width (Gold et al. – Column 5, lines 6-15 recite the detection of bandwidth to determine if a sufficient amount of usable bandwidth is available);

a transmitter that transmits the data through the network to the server to store the data in the server as backup data when the backup controller determines the width of usable band to be wider than the predetermined width (Gold et al. – Column 5, lines 6-15 recite the backup will be allowed to start if bandwidth is sufficient),

The motivation and obviousness arguments are the same as Claim 1.

As to Claim 14, the combination of Ramberg et al. and Gold et al. discloses an invention substantially as claimed, including the data backup system according to claim 11, wherein the types are user data, operating system setting data, application information, and other data (Ramberg et al. - Abstract recites user, voice recognition system data and barcode application data; Gold et al. - Column 6, lines 35-40 recite the backup of operating system data).

As to Claim 17, the combination of Ramberg et al. and Gold et al. discloses an invention substantially as claimed, including the data backup system according to claim 11, wherein

the server comprises an initial state storage unit that stores initial state master data of the client (Gold et al. – Column 8, lines 54-63 recites a user request to restore an earlier version of a file. This is achieved through the use of the DTF and BDF, which allows a user to capture a state in time. Since that state is retrievable, and a “master” is user defined, a “master” or previous copy must exist in order to restore back to that version. Hence, the initial state master data of the client is stored), and

the data restoring unit that in the client receives an initial state restore request from a user to restore data of an initial state of the client (Gold et al. – Column 8, lines 54-57 recites a user request to restore an earlier version of a file),

requests the server to transmit a difference between the backup data and the initial state master data (Gold et al. – Column 8, lines 54-57 recites the DTF being used to identify the differences between backup versions), and

receives the difference from the server to restore the difference to the client (Gold et al. – Column 8, lines 59-64 recites the difference being determined and said difference is sent to the client).

The motivation and obviousness arguments are the same as in Claim 4.

As to Claim 18, the combination of Ramberg et al. and Gold et al. discloses an invention substantially as claimed, including the data backup system according to claim 11, wherein

the client further comprises a distribution specifying unit that receives distribution information from a user and transmits the distribution information to the server, the distribution information that specifies distributed data to be distributed from the backup data stored in the server to another client separate from the client via the network, a time at which the distributed data is to be distributed, and a destination to which the distributed data is to be distributed (Ramberg et al. – Claim 28 recites the ADC device; Abstract recites user input; Column 4, lines 60-67 recite the user input from several devices that send data as well as distribution information such as bar code readers, RF readers, magnetic strip readers, speech recognizing devices et al.; Claim 28 recites the router which sends backed up data to another ADC device; Claim 28 recites only when client applications should receive the data; Claim 28 recites the router; Column 11, lines 47-52 recite the time for which to send the data from the server to the client), and

the server further comprises a data distributing unit that distributes the distributed data from the backup data to the destination and at the time based on the distribution information (Ramberg et al. – Claim 28 recites the ADC device; Abstract recites user input; Claim 28 recites the router which sends backed up data to another ADC device; Claim 28 recites only when client applications should receive the data; Claim 28 recites the router which sends backed up data to another ADC device).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard G. Keehn whose telephone number is 571-270-5007. The examiner can normally be reached on Monday through Thursday, 8:30am - 7:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2152

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RGK

/Bunjob Jaroenchonwanit/
Supervisory Patent Examiner, Art Unit 2152